



IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED DESERT CHARITIES, *et al.*,  
Plaintiffs,  
vs.  
SLOAN VALVE COMPANY, *et al.*,  
Defendants

Case No. 2:12-cv-06878 SJO (SHx)

**[PROPOSED] ORDER FINALLY  
APPROVING MODIFICATIONS OF  
SETTLEMENT AGREEMENT AND  
PLAN OF ALLOCATION**

*The Honorable. S. James Otero*

Date: September 18, 2017

Time: 10:00 a.m.

Courtroom: 10C

Consolidated Cases:

*Berube v. Flushmate*

2:13-cv-02372-SJO-SH

*Brettler v. Flushmate*

2:13-cv-02499-SJO-SH

*Kubat, et al. v. Flushmate*

2:13-cv-02425-SJO-SH

*Patel v. Flushmate*

2:13-cv-02428-SJO-SH

Related Cases:

*Mergens v. Sloan Valve Co.*

2:16-cv-05255-SJO-SKx

*Dimov v. Sloan Valve Co.*

1:12-cv-09700 (N.D. Ill)

1 On September 18, 2017, the Court heard the Joint Motion for Final Approval of  
2 Modifications to the Settlement and Plan of Allocation in this consolidated action.

3 Previously, following a hearing on April 10, 2017 (“Conditional Approval  
4 Hearing”), this Court entered its Amended Order Conditionally Approving  
5 Modifications of Settlement Agreement and Plan of Allocation (“Amended Order”)  
6 (ECF No. 164) “as being a fair, reasonable and equitable solution for allowing  
7 distribution of some of the unclaimed settlement funds remaining in the Settlement  
8 Fund Trust Account following the close of the Claims Period to the Settlement Class.”  
9 “By proposing that some of those unclaimed settlement funds also be utilized to resolve  
10 the claims of the proposed settlement class in the related *Mergens v. Sloan Valve Co.*  
11 case pending before this Court (Case No. 2:16-cv-05255-SJO-SKx),” the Court also  
12 found that the proposed modifications apply “some of those settlement funds to their  
13 next highest and best use in accordance with the *cy pres* doctrine.”

14 “Because the proposed modifications of the Settlement and Plan of Allocation  
15 provide many additional benefits to the Settlement Class, do not provide for a lesser  
16 recovery to the Settlement Class than was available under the original Settlement, and  
17 do not bargain away rights to enforce portions of that agreement,” this Court also found  
18 there is “no requirement that supplemental notice be provided to the Settlement Class or  
19 that Settlement Class Members be afforded the opportunity to be heard on the proposed  
20 modifications under Rule 23(e) of the Federal Rules of Civil Procedure prior to their  
21 adoption.”

22 Nevertheless, upon the parties' request, the Court's Amended Order also approved,  
23 as to form and content, notice of the proposed modifications of the Settlement and Plan  
24 of Allocation to the Settlement Class, found that the proposed Notice Plan was fair,  
25 reasonable and adequate, and ordered that all costs associated with the Notice Plan be  
26 paid from the Settlement Fund Trust Account.

27 The Court has now considered the Notice of Motion and Joint Motion for Final  
28 Approval of Modifications of Settlement Agreement and Plan of Allocation, and the

1 Declarations of Arnold Rodio, Shannon Wheatman, David M. Birka-White and Steven  
2 H. Frankel filed concurrently therewith. In addition, the Court has considered the  
3 previously-filed Joint Motion for Conditional Approval of Modifications of Settlement  
4 Agreement and Plan of Allocation (ECF No. 154), the accompanying Special Master's  
5 Report and Recommendation (ECF No. 154-5) and the Declarations of David M. Birka  
6 White (ECF No. 154-1), Steven H. Frankel (ECF No. 154-2), Michael Gembarski (ECF  
7 No. 154-3), Arnold Rodio (ECF No. 154-4), Shannon Wheatman (ECF No. 154-6) and  
8 William M. Audet (ECF No. 161), and argument of counsel.

9 Based upon the foregoing and being otherwise fully advised in the premises, the  
10 Court HEREBY ORDERS, ADJUDGES, and DECREES as follows:

11 1. This Order finally approves the modifications of the Settlement  
12 Agreement and Plan of Allocation and incorporates and makes a part hereof the Court's  
13 findings and conclusions in the Amended Order. All capitalized terms in this Order  
14 shall have the same meanings as in the Settlement and in the modifications, unless  
15 separately defined herein.

16 2. This Court has jurisdiction over the subject matter and parties pursuant to  
17 28 U.S.C. §1332(d)(2) and 28 U.S.C. §1453. This jurisdiction includes, without  
18 limitation, jurisdiction to shape equitable decrees for distributing unclaimed class  
19 action settlement funds.

20 3. All conditional findings and conclusions in the Court's Amended Order  
21 are hereby made final. This Court finds that the proposed modifications of the  
22 Settlement Agreement and Plan of Allocation are a fair, reasonable and equitable  
23 solution for allowing distribution of some of the unclaimed settlement funds remaining  
24 in the Settlement Fund Trust Account following the close of the Claims Period to the  
25 Settlement Class by extending the Claims Period. In recognition of their service, the  
26 Incentive Awards to each Class Representative are increased from \$1,000 to \$5,000,  
27 and are to be paid from the Settlement Fund Trust Account within ten (10) days  
28 following the Effective Date of this Order.

